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**Datasheet for the decision
of 20 May 2014**

Case Number: T 1815/10 - 3.3.03

Application Number: 04725421.4

Publication Number: 1618149

IPC: C08L5/00, C11D3/00, C11D3/22,
C11D17/00

Language of the proceedings: EN

Title of invention:
Thickenable Compositions

Patent Proprietor:
Reckitt Benckiser Healthcare (UK) Limited

Opponent:
Henkel AG & Co. KGaA

Headword:

Relevant legal provisions:

Keyword:
"Request for revocation from the patent proprietor"

Decisions cited:

Catchword:



**Beschwerdekammern
Boards of Appeal
Chambres de recours**

European Patent Office
D-80298 MUNICH
GERMANY
Tel. +49 (0) 89 2399-0
Fax +49 (0) 89 2399-4465

Case Number: T 1815/10 - 3.3.03

**D E C I S I O N
of Technical Board of Appeal 3.3.03
of 20 May 2014**

Appellant: Reckitt Benckiser Healthcare (UK) Limited
(Patent Proprietor) 103-105 Bath Road
Slough, Berkshire SL1 3UH (GB)

Representative: O'Brien, Niall James
Reckitt Benckiser
Corporate Services Limited
Legal Department - Patents Group
Dansom Lane
Hull
HU8 7DS (GB)

Respondent: Henkel AG & Co. KGaA
(Opponent) Henkelstrasse 67
40589 Düsseldorf (DE)

Representative: Henkel AG & Co. KGaA
FJI Patente
40191 Düsseldorf (DE)

Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 2 July 2010
revoking European patent No. 1618149 pursuant to
Article 101(3) (b) EPC.**

Composition of the Board:

Chairman B. ter Laan
Members: D. Marquis
C. Brandt

Summary of Facts and Submissions

- I. The appeal by the patent proprietor lies against the decision of the opposition division posted 2 July 2010 revoking European patent N° 1 618 149 (application number 04 725 421.4).
- II. On 30 August 2010, the patent proprietor filed an appeal against this decision and paid the appeal fee on the same day. The statement setting out the grounds of appeal was received 12 November 2010, in which the appellant requested that the decision of the opposition division be set aside and that the patent be maintained on the basis of a main or any of six auxiliary requests. Furthermore the appellant filed an auxiliary request for oral proceedings.
- III. With a letter dated 14 March 2011 the respondent requested that the appeal be dismissed. Furthermore the respondent filed an auxiliary request for oral proceedings.
- IV. In a communication pursuant to Rule 115(1) EPC dated 30 October 2013 the Board summoned the parties to oral proceedings to take place on 24 June 2014.

In a communication dated 11 March 2014, the Board gave its preliminary opinion on the main and auxiliary requests in view of Articles 123(2) and 83 EPC.

- V. With a letter dated 10 April 2014, the appellant stated:

"The Proprietor is no longer interested in continuing with the appeal filed for this patent. Accordingly the Proprietor no longer approves the text in which the

patent was granted and will not be submitting an amended text.

We therefore now request that the Decision of the Opposition Division to revoke the patent be maintained by the Board of Appeal, and that our appeal against the revocation be dismissed. We also withdraw our request for oral proceedings.

We understand that a decision rejecting our appeal, and upholding the revocation of the patent, will be issued in due course."

Reasons for the Decision

1. The appeal is admissible.
2. In his letter of 10 April 2014 the appellant expressly requested the dismissal of his appeal. Since that is also the request of the respondent, the Board cannot but dismiss the appeal (*ne ultra petita*; see G 9/92, OJ EPO 1994, 875, Reasons 1).

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



E. Goergmaier

B. ter Laan

Decision electronically authenticated